IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOS : 19965 of 1994 AND 19966 OF 1994

W.P.NO.19965 OF 1994

Between:

Edupuganti Satya Prasad, S/o. Seshagiri Rao,
R/o. Ashok Nagar, Eluru,
W.G.Dist.

..... PETITIONER

AND

1 The Subordinate Judge, Eluru,
W.G.Dist.
2 The Dist.Revenue Officer, Eluru,
W.G.Dist.

3 The joint Sub-Registrar, Eluru,

West Godavari District. **....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court be pleased to issue a Writ or order or direction ,particularly one in the nature of Writ of Certiorari , calling for the records relating to the order of the 1st respondent in C.M.A.No.8/89 dt.22.8.1994, confriming the order of the Dist. Revenue officer, Eluru, the 2nd respondnet herein in the proceedings D.2701/89/B4 Rev. dt.23.3.1989 and quash the same as arbitrary , illegal and unfair.

Counsel for the Petitioner:MR.M.RAVINDRANATH REDDY

Counsel for the Respondents: GP FOR REVENUE

AND

W. P. NO : 19966 of 1994

Between:

Y.Krishna Mohan, S/o. Satyanarayana,
Ashoknagar, Eluru,
W.G.Dist.

..... PETITIONER

AND

1 The Subordinate Judge,
Eluru, W.G.Dist.
2 The Dist. Revenue Officer,
Eluru, W.G.Dist.
3 The Joint Sub-Registrar,
Eluru, W.G.Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court be pleased to issue a Writ or order or direction, particularly one in the nature of Writ of Certiorari, calling for the records relating to the order of the 1st respondent in C.M.A.No.7/1989 dt.22-8-1994 , confirming the order of the Dist. Revenue Officer,Eluru, the 2nd respondent herein in the proceedings D.2701/89/B4/Rev. dt.23.3.1989 and quash the same as arbitrary ,illegal and unfair.

Counsel for the Petitioner:MR.M.RAVINDRANATH REDDY

Counsel for the Respondent Nos.: GP FOR REVENUE

The Court made the following :

COMMON ORDER:

Heard both the learned Counsel.

Since the subject matter of both these Writ Petitions is one and the same, they are being taken up together for disposal.

The petitioner in W.P.No.19965 of 1994, is the purchaser of the property consisting of house under registered sale deed in document No.62 of 1987 dated 09-09-1987

and the petitioner in W.P.No.19966 of 1994 is the purchaser of the property consisting of house under registered sale deed in document No.63 of 1987 dated 09-09-1987. They filed these Writ Petitions, inter alia, seeking to assail the orders in C.M.A.No.8 of 1989 and C.M.A.No.7 of 1989 dated 22-08-1994 passed by the 1st respondent herein confirming the orders of the 2nd respondent dated 23-03-1989.

The facts in brief are that on purchase of the said properties the petitioners were sought to registered the same as document Nos.62 of 1987 and 63 of 1987 dated 09-09-1987 respectively. However, on the objection that the said documents are undervalued the 3rd respondent referred the matter to the 2nd respondent, who after conducting enquiry, held that the value of the said houses was undervalued and further directed the petitioners to pay the deficit stamp duty by his orders dated 23-03-1989 and the said orders are also confirmed in Appeals.

The main objection raised by the petitioners herein is that under Rule 3 (3) of Andhra Pradesh Stamp (Prevention of Under- valuation of Instrument) Rules, 1975 (for short 'the Rules') before referring the matter to the 2nd respondent, the 3rd respondent ought to have conducted an enquiry and come to a conclusion on its own material available and it is only thereafter the process under Section 47-A of the Stamp Act would start. In support, the learned Counsel for the petitioners placed reliance on the Judgment of this Court reported in P.SASIDHAR vs. SUB-REGISTRAR, whereunder this Court considering the Rule 3(3) of the Rules held that registering authority has to necessarily conduct an enquiry and come to its own conclusion.

On a consideration of the material gathered and evidence adduced by the parties, it is seen that admittedly in this case no such enquiry was conducted, whereas the 3rd respondent straightaway referred the matter to the 2nd respondent. Having regard to the same, there is a clear violation of the mandate as contemplated under the Rules.

Accordingly, both the Writ Petitions are allowed. The impugned orders are set aside. It is however, open for the respondent No.3 herein to conduct fresh enquiry and pass orders in accordance with law, after giving notice and opportunity to all the concerned parties. No costs.

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B.PRAKASH RAO, J.

Dated 08-07-2004.

SKMR

To

1 The Subordinate Judge,
Eluru, W.G.Dist.
2 The Dist. Revenue Officer,
Eluru, W.G.Dist.
3 The Joint Sub-Registrar,
Eluru, W.G.Dist.

4. 2CCs to G.P. for Revenue, High Court Buildings, Hyderabad. (OUT).

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